

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

HOMER O. REED,

Plaintiff,

Case No. 2:15-cv-00142-APG-PAL

V.

PEGGY MARTINEZ, et al.,

Defendants.

REPORT OF FINDINGS AND RECOMMENDATION

This matter is before the court on Plaintiff's failure to comply with this court's Orders (ECF Nos.19, 25).

On August 1, 2016, the court entered an Order (ECF No. 19) requiring Mr. Reed to file a notice with the court identifying whether Defendant Martinez was served within 14 days of received the executed Form USM-285 no later than October 30, 2016. The order warned Mr. Reed that his failure to advise the court of service of Defendant Martinez, 14 days after receiving the executed Form USM-285, and by October 30, 2016, would result in a recommendation to the district judge that his case be dismissed without prejudice. Furthermore, Mr. Reed was advised that if he wished to have service attempted again, he must timely file a motion specifying a more detailed name and/or address for Defendant Martinez, or whether some other manner of service should be attempted. Mr. Reed did not file a notice and did not file a motion to have service attempted again specifying more detailed information.

On September 19, 2016, the court entered an Order (ECF No. 25) denying as moot Mr. Reed's motion for service because he requested that a subpoena be issued for Defendant Martinez when, in fact, it had already been issued on August 2, 2016. The order warned Mr. Reed that the court's deadlines found within its Order (ECF No. 19) would remain in effect. The order also warned Mr. Reed again that his failure to advise the court of service of Defendant Martinez, 14 days after receiving the executed Form USM-285, and by November 3, 2016, would result in a

recommendation to the district judge that this case be dismissed without prejudice. He was also further advised that if he wished to have service attempted again, he must timely file a motion specifying a more detailed name and/or address for Defendant Martinez. Again, Mr. Reed did not file a notice and did not file a motion to have service attempted again specifying more detailed information.

Accordingly,

IT IS RECOMMENDED that this case be **DISMISSED without prejudice**, for Plaintiff's failure to comply with court orders regarding service of Defendant Martinez.

DATED this 28th day of December, 2016.


PEGGY A. SEIDEN
UNITED STATES MAGISTRATE JUDGE

NOTICE

This Report of Findings and Recommendation is submitted to the assigned district judge pursuant to 28 U.S.C. § 636(b)(1) and is not immediately appealable to the Court of Appeals for the Ninth Circuit. Any notice of appeal to the Ninth Circuit should not be filed until entry of the district court's judgment. *See Fed. R. App. P. 4(a)(1).* Pursuant to LR IB 3-2(a) of the Local Rules of Practice, any party wishing to object to a magistrate judge's findings and recommendations shall file and serve *specific written objections*, together with points and authorities in support of those objections, within 14 days of the date of service. *See also 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 6, 72.* The document should be captioned "Objections to Magistrate Judge's Report of Findings and Recommendation," and it is subject to the page limitations found in LR 7-3(b). The parties are advised that failure to file objections within the specified time may result in the district court's acceptance of this Report of Findings and Recommendation without further review. *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). In addition, failure to file timely objections to any factual determinations by a magistrate judge may be considered a waiver of a party's right to appellate review of the findings of fact in an order or judgment entered pursuant to the recommendation. *See Martinez v. Ylst*, 951 F.2d 1153, 1156 (9th Cir. 1991); Fed. R. Civ. P. 72.